

MAF DRAFT 4/3/14

Mr. Rock Owens
Office of Vince Ryan, Harris County Attorney
1019 Congress, 15th Floor
Houston, TX 77002-1700

Re: San Jacinto River Waste Pits Superfund Site, Harris County, Texas

Dear Mr. Owens:

Thank you for your letter and the information you have provided regarding the San Jacinto site. The Environmental Protection Agency ("EPA") is very concerned that there is any question about the integrity of the information being provided by the site potentially responsible parties ("PRPs") performing the Time Critical Removal Action ("TCRA") and the Remedial Investigation/Feasibility Study ("RI/FS") for the site. This work is being performed under administrative orders, with EPA oversight, pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, as amended ("CERCLA"). For the reasons described below, the EPA believes that the objectivity of the Superfund removal and remedy selection processes have not been compromised at the San Jacinto site, although your letter indicates that the EPA should consider further efforts to ensure that all parties are comfortable with the EPA response at the site.

The PRPs at the San Jacinto site, like PRPs at many Superfund sites, clearly have a preferred method for addressing the site contamination, as evidenced in the e-mails attached to your letter. While CERCLA provides for PRP financing and performance of removals, site investigations, and remedial actions, the process also provides significant safeguards to prevent any undue influence or bias that might result on Agency actions or decision-making. For example, sampling is performed under the oversight of EPA or its representatives, and the Agency provides for split samples to be taken for separate analysis. At this site in particular, the EPA has entered into agreements with both Harris County and the Port of Houston so that these entities could provide comments on all draft technical documents, in addition to continued coordination with EPA's usual partner, the State of Texas.

As you hopefully are aware, the EPA collected and provided to the PRPs significant comments on the first draft of the site Feasibility Study; among many other comments, EPA made it clear that the PRPs could not identify a preferred remedy in the Feasibility Study, and required the PRPs to identify additional alternatives for consideration. The Agency is now soliciting comments on the second draft of the Feasibility Study, with the goal of ensuring that the final document identifying and comparing site remedial alternatives is technically, and objectively, sound and well-supported by available information.

The EPA takes the lead on all community relations activities for the site, including all public meetings with EPA personnel and the Community Advisory Group. I frankly was surprised at the comments in the e-mails you attached regarding site community relations and Mr. Valmichael Leos, the EPA On-Scene Coordinator ("OSC") for the site (Mr. Gary Miller is the Remedial Project Manager or "RPM"). I do not know how familiar you are with Mr. Leos and his work on the site, but the perceptions described in the e-mail are clearly ill-founded. Mr. Leos previously completed a report drafted by the PRPs to ensure its conformance with EPA requirements, and

recently has spear-headed the effort to re-work the temporary site cap, pursuant to an investigation by the U.S. Corps of Engineers.

In summary, the PRPs do not control the data interpretation and conclusions of the Feasibility Study because of the active oversight of the EPA, TCEQ, Harris County, the Port of Houston, and the natural resource trustees, as well as our many community partners, and I sincerely dispute any aspersions cast upon Mr. Leos in the PRP e-mails attached to your letter. I hope that this letter helps to address any concerns that the e-mails may have caused, and the Agency will investigate whether further outreach is needed to address any misperceptions that may have resulted. Please feel free to call me at 214-665-2169 if you wish to discuss this matter further.

Sincerely yours,

Anne Foster
Office of Regional Counsel

cc:

6RC-S:FOSTER:sanj letter to rock owens

6SF-RA
Miller

6SF-RA
Sanchez

6RC-S
Peycke

6SF-R
Meyer